Supreme Court, U. S.
FILED
DEC 3 1975
MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-527

G. RAYMOND ARNETT, as Director of the Department of Fish and Game of the State of California,

Petitioner and Plaintiff,

vs.

5 GILL NETS, etc.,

Defendants,

RAYMOND MATTZ,

Respondent and Intervenor.

Reply Brief of Petitioner and Appellant

EVELLE J. YOUNGER
Attorney General of the
State of California

CARL BORONKAY
Assistant Attorney General

RODERICK WALSTON
Deputy Attorney General

6000 State Building
San Francisco, CA 94102
Tel: (415) 557-3920

Attorneys for Petitioner and Plaintiff

SORG PRINTING COMPANY OF CALIFORNIA, 346 FIRST STREET, SAN FRANCISCO 94105

In the Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-527

G. RAYMOND ARNETT, as Director of the Department of Fish and Game of the State of California,

Petitioner and Plaintiff,

vs.

5 GILL NETS, etc.,

Defendants,

RAYMOND MATTZ,

Respondent and Intervenor.

Reply Brief of Petitioner and Appellant

ARGUMENT

We file this Reply Brief, under Rule 24(4), for the purpose of responding to a single issue raised by the intervenor for the first time in this case. At page 10 of his opposition to our petition, the intervenor states that his nets were merely "stored" on privately-owned lands, and that there is no evidence that the nets were actually used in violation of California law. None of the lower courts in this case have regarded this issue as material. In fact, this fact is entirely irrelevant under California law. Section 8664 of California's Fish and Game Code, cited in our petition for writ of certiorari, provides that "any net found in,

or within 500 feet of the Klamath [River] . . . is prima facie evidence that the owner or person in possession of the net is or has been using it unlawfully." The nets in this case were left unattended in a tub approximately 200 feet from the Klamath River. CT 151. Therefore, the facts of this case present a prima facie case that the intervenor was using the nets in violation of California law.

EVELLE J. YOUNGER
Attorney General of the
State of California

CARL BORONKAY
Assistant Attorney General

RODERICK WALSTON
Deputy Attorney General

6000 State Building
San Francisco, CA 94102
Tel: (415) 557-3920

Attorneys for Petitioner and Plaintiff